HIGH COURT OF UTARANCHAL AT NAINITAL

Writ Petition No. 3328 (MS) of 2001
(Old No. 10322/1998)

Hindustan Petroleum Corporation Ltd. and Another. .... Petitioners

Vs

District Judge, Pauli Garhwal and others. .... Respondents.

Dated:29-9-2004

Hon'ble Rajesh Tandon J.

By the present writ petition the petitioners have prayed for a writ, order or direction in the nature of certiorari quashing the order of the District Judge, Pauri Garhwal dt. 20-12-1997 passed in the Rent Appeal No. 14/97 as well as the order passed by the prescribed Authority dt. 23-12-1996, 8-2-1996 and 11-6-1994.

Briefly stated an application under Section 21(8) of the U.P. Act No. 13 of 1972 was filed on behalf of the landlord demanding the Rent of Rs. 9000/- per month. The landlord has stated that the premises was originally let out to standard vacuum Oil Co. at an annual rent of Rs. 2700/-. The said premises was taken over by ESO standard Eastern Inc. on rent and now Hindustan Petroleum Corporation Ltd., is the tenant of the applicant. The rent was enhanced from Rs. 2700/- to Rs. 3300/- and to Rs. 9000/- per annum by the order of the prescribed Authority. The tenant (O.P.) is a Central Govt. undertaking and the provisions of Section 21(8) of the U.P. Act No. 13 of 1972 are fully applicable to it. According to the report

of Tehsildar Kotdwar dated 21-10-1992, the present rate of the premises is Rs. 800/- per sq.mt.

Since the lease agreement between the applicant and the O.P. expired on 14-2-1993, the registered notice was served on 17-11-1992 informing the O.P. for payment and enhanced Rent and for further renewal of lease agreement with effect from 15-2-1993, which the O.P. has failed to pay. The market value of the rented premises as well as value of the land is Rs. 408000, Under U.P. Act No. 13 of 1972, the landlord is entitled for enhancement of Rent under section 21 (8) after every 5 years.

By vide order dt. 8-2-1996, the rent was fixed Rs. 50, 000 per annum or Rs. 4166.00 per month.

The petitioners have failed to produce any report, documentary or oral regarding the valuation The prescribed Authority has recorded the finding to the following effect:-

> " उपरोक्त विवेचन के आाार पर मै दस विनिष्चय पर पहुॅचा हूॅ कि वर्तमान में प्रतिवादी के किरायेदारी के अधीन भूमि तथा भवन का कुल बाजार मूल्य रूपया 5.012,000.00 अर्थात 5 लाख है। धारा–21(8) यू0पी0 ऐक्ट न0 13 सन 1972 के प्रथम प्रतिबन्ध के अनुसार किरायें में वृद्वि भवन के बाजार मूल्य के 10 प्रतिषत तथा 12वें भाग के बराबर बढ़ाया जा सकता है। इस प्रकार भवन तथा भूमि के बाजार मूल्य रूपया 500000 का 10 प्रतिषत अर्थात रूपया 50,000 का 1/2 अर्थात रूपया 4166 (चार हजार एक सौ छयासठ) प्रति मासिक होता है।"

The petitioner has preferred an application under Order 9 Rule 13 of the Code of Civil Procedure for restoration of the order. The said application was rejected on 23-12-1996. The appeal was preferred against the said order and the said appeal was dismissed on 20-12-1997.

A perusal of Section 21(8) of the U.P. Act No. 13 of 1972 shows that rent can be enhanced after interval of 5 years. Therefore, the present enhancement which has been made in the year 1996 has been rightly decided by the Prescribed Authority.

Both the courts below have recorded a finding that inspite of the service, petitioners have failed to appear.

The Prescribed Authority has considered the report of the valuer and has fixed the rent at the rate of Rs. 50,000/- per annum. The applicant has demanded to the extent of Rs. 9000 per month. I do not find any error in the order passed by the court.

The writ petition is dismissed. No order as to costs.

Dated:- 29-9-2004 *(RAJESH TANDON J.)*

M.K.